

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., et al.,

CASE NO. C19-0990JLR

Plaintiffs,

ORDER ON PLAINTIFFS'
MOTION FOR ATTORNEY'S
FEES

CHUN WONG, et al.,

Defendants.

I. INTRODUCTION

Before the court is Plaintiffs Amazon.com, Inc. (“Amazon”) and Nite Ize, Inc.’s (“Nite Ize”) (collectively, “Plaintiffs”) motion for attorney’s fees. (Mot. (Dkt. # 67).) Defendant Chun Wong has not submitted a response to Plaintiffs’ motion (*see generally* Dkt.), but his counsel represents that he has “no information with which to provide a substantive opposition.” (See Rosenbaum Decl. (Dkt. # 70) ¶ 8.) The court has considered the parties’ submissions, the relevant portions of the record, and the

11

1 applicable law. Being fully advised,¹ the court GRANTS Plaintiffs' motion for
 2 attorney's fees and AWARDS their counsel \$12,000 in attorney's fees.

3 **II. BACKGROUND**

4 This action arises out of Mr. Wong's alleged operation of multiple Amazon
 5 seller's accounts through which he advertised and sold counterfeit Nite Ize products.
 6 (See Am. Compl. (Dkt. # 31) ¶ 6.) Plaintiffs sued more than a dozen Defendants,
 7 including Mr. Wong, for trademark infringement, false designation of origin, breach of
 8 contract, false advertising, and civil conspiracy. (See *id.* ¶¶ 78-113.) To date, only Mr.
 9 Wong has appeared in this matter. (See Dkt.) Plaintiffs served Mr. Wong with discovery
 10 requests on July 23, 2021, to which Mr. Wong failed to timely or substantively respond.
 11 (See 3/7/22 Order (Dkt. # 64) at 2.) When the parties were unable to resolve their
 12 discovery dispute, they brought the issue before the court. (*Id.* at 2-3.) After holding a
 13 discovery hearing (1/19/22 Min. Entry (Dkt. # 54)), the court ordered Plaintiffs to submit
 14 a motion to compel, which it subsequently granted. (See 3/7/22 Order at 3, 13.) The
 15 court also invited Plaintiffs to file a request for expenses incurred in connection with this
 16 dispute (*id.* at 12-13), which Plaintiffs have done through the instant motion.

17 **III. ANALYSIS**

18 Plaintiffs represent that their counsel collectively "billed a total amount of
 19 \$27,879.50 for work related to preparing for and attending the January 19, 2022

20 //

21
 22

¹ Neither party has requested oral argument and the court concludes that oral argument would not be helpful to its disposition of the motion. *See* Local Rule W.D. Wash. LCR 7(b)(4).

1 discovery hearing with the [c]ourt,” and related to drafting their motion to compel and
 2 reply in support of that motion. (See Rainwater Decl. (Dkt. # 68) ¶ 11.) That total is
 3 based on 47.9 hours of attorney and paralegal work, comprised of the following: 9.6
 4 hours of work performed by attorney Lauren B. Rainwater at an hourly rate of \$635 (*id.*
 5 ¶¶ 3, 9-10); 2.6 hours of work performed by Scott R. Commerson at an hourly rate of
 6 \$785 (*id.* ¶¶ 4, 9-10); 7.1 hours of work performed by attorney Olivia M. Powar at an
 7 hourly rate of \$535 (*id.* ¶¶ 5, 9); 29.4 hours of work performed by attorney Peter K. Bae
 8 at an hourly rate of \$535 (*id.* ¶¶ 6, 9-10); and 1 hour of work performed by paralegal
 9 Ardie Ermac at an hourly rate of \$215 (*id.* ¶¶ 7, 9-10). However, Plaintiffs only request
 10 fees in “the discounted amount of \$12,000.” (*Id.* ¶ 11; *see* Mot. at 1.)

11 Under Rule 37, if a motion to compel is granted, “the court must, after giving an
 12 opportunity to be heard, require the party . . . whose conduct necessitated the motion, the
 13 party or attorney advising that conduct, or both to pay the movant’s reasonable expenses
 14 incurred in making the motion, including attorney’s fees” unless “the opposing party’s
 15 nondisclosure, response, or objection was substantially justified.” Fed. R. Civ. P.
 16 37(a)(5). Courts calculate reasonable attorney’s fees by finding the “lodestar,” which is
 17 calculated by multiplying “the number of hours reasonably expended on the litigation” by
 18 “a reasonable hourly rate.” *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983); *Fischer v.*
 19 *SJB-P.D. Inc.*, 214 F.3d 1115, 1119 (9th Cir. 2000). The resulting figure is
 20 presumptively reasonable. *See Morales v. City of San Rafael*, 96 F.3d 359, 363 (9th Cir.
 21 1996). The court calculates the reasonable hourly rate by looking to the rate prevailing in
 22 the Western District of Washington “for similar work performed by attorneys of

1 comparable skill, experience, and reputation.” *See Chalmers v. City of L.A.*, 796 F.2d
 2 1205, 1210-11 (9th Cir. 1986); *see also Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973,
 3 979 (9th Cir. 2008) (holding relevant community is “the forum where the district court
 4 sits”).

5 The court previously found “that Mr. Wong’s failure to adequately respond to
 6 Plaintiffs’ first set of discovery requests was not substantially justified and resulted in
 7 unnecessary motion practice.” (3/7/22 Order at 12.) And it now concludes that
 8 Plaintiffs’ \$12,000 fee request represents a reasonable number of hours expended at
 9 reasonable hourly rates. *See Hensley*, 461 U.S. at 433. The court reaches this conclusion
 10 after reducing the 49.7 hours Plaintiffs’ counsel billed to the discovery dispute with Mr.
 11 Wong by an amount proportionate to their discounted fee request, and finding that sum—
 12 totaling approximately 21 hours—to be a reasonable number of hours to have spent on
 13 this dispute. Additionally, the court finds that the hourly rates used by Plaintiffs’
 14 counsel, which range from \$535 to \$785 for attorneys and \$215 for paralegals (*see*
 15 Rainwater Decl. ¶¶ 3-7), are comparable to those “prevailing in the community for
 16 similar work performed by attorneys of comparable skill, experience, and reputation,”
 17 *Chalmers*, 796 F.2d at 1210-11; *see also Pelletz v. Weyerhaeuser Co.*, 592 F. Supp. 2d
 18 1322, 1326-27 (W.D. Wash. 2009) (finding “\$475 to \$760 per hour” to be a reasonable
 19 rate for attorneys located in Seattle).

20 //

21 //

22 //

IV. CONCLUSION

For the foregoing reasons, the court GRANTS Plaintiffs' motion for attorney's fees (Dkt. # 67) and AWARDS Plaintiffs' counsel \$12,000. Mr. Wong is ORDERED to remit payment to Plaintiffs' counsel in that amount.

Dated this 12th day of April, 2022.

John P. Blot

JAMES L. ROBART
United States District Judge